



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 27, 1996

Mr. John Pepper
Chief Appraiser
Panola County Appraisal District
2 Bell Park Road
Carthage, Texas 75633

OR96-0429

Dear Mr. Pepper:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 37989.

The Panola County Appraisal District (the "district") received a written request for "certain mineral appraisal information . . . on magnetic tape or computer disk," in reference to an earlier request by the requestor's client. You characterize the request as a request for an "electronic alpha mineral roll" which, through existing technology, could be sorted into a "division order," which you contend is exempt from required public disclosure as confidential under section 552.101 of the Government Code in conjunction with section 22.27 of the Texas Property Tax Code. You do not contend that the mineral roll itself is confidential under section 22.27 but, rather, that it could be transformed by the requestor into a record which, in the hands of the district, would be confidential under section 22.27.¹

¹Initially, we note that section 552.301 of the Government Code provides that a governmental body must ask the attorney general for a decision as to whether requested documents must be disclosed not later than the tenth calendar day after the date of receiving the written request. The district received the written request for information on November 17, 1995. You did not request a decision from this office until December 29, 1995, more than ten days after the requestor's written request. Therefore, the district has failed to meet its ten-day deadline for requesting an opinion from this office.

When a governmental body fails to request a decision within ten days of receiving a request for information, the information at issue is presumed public. *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379 (Tex. App.—Austin 1990, no writ); *City of Houston v. Houston Chronicle Publishing Co.*, 673 S.W.2d 316, 323 (Tex. App.—Houston [1st Dist.] 1984, no writ); Open Records Decision No. 319 (1982). The governmental body must show a compelling interest to withhold the information to overcome this presumption. *See id.* Normally, a compelling interest is that some other source of law makes the

You submitted to this office, as representative of the information requested, a document entitled "Division Order." However, through conversations with you and the requestor, and through correspondence submitted to this office, we understand that this division order is not truly representative of the specific information requested, *see* Gov't Code § 552.301(b)(3). "Division orders" may be exempt from required public disclosure under section 552.101, so long as they are obtained pursuant to a confidentiality agreement in accordance with section 22.27(a) of the Tax Code. *See* Open Records Decision No. 387 (1983) at 4. However, as division orders are not the subject of this open records request, and as you have not indicated that the information requested was obtained pursuant to a confidentiality agreement, we conclude that section 22.27(a) of the Tax Code does not prohibit the disclosure of the information which is the subject of this request.

As for your contention that an "electronic alpha mineral roll"² could be transformed by the requestor into a record which, in the hands of the district, would be confidential, we note that information is not protected from disclosure simply because, if released, it might indirectly lead to the disclosure of confidential information. *Cf.* Open Records Decision Nos. 408 (1984) at 9-10, 366 (1983) at 4. Furthermore, the district may not inquire into the motives of the requestor. Gov't Code § 552.222; Open Records Decision Nos. 542 (1990), 508 (1988). In addition, this office has held that computer tapes are not *per se* excepted from required public disclosure and that the form in which information is stored should have nothing to do with the issue of its availability under the Open Records Act. Open Records Decision No. 352 (1982); *see also* Open Records Decision Nos. 182 (1977), 65 (1975).

Section 552.002(a) defines the term "public information" to include information that is "collected, assembled, or maintained . . . (1) by a governmental body; or (2) for a governmental body and the governmental body owns the information or has a right of access to it." Gov't Code § 552.002(a) (emphasis added). We understand that the information requested is generated by Pritchard & Abbott, Inc., the district's professional appraisal firm, for the district's use in assessing taxes to the owners of mineral interests. Because this information is "collected, assembled, or maintained . . . for the district" and we conclude that the district "owns the information or has a right of access to it," this information is subject to the Open Records Act. *See* Open Records Decision No. 558 (1990) (where governmental body has right of access to or ownership of information prepared by outside entity, information is subject to Open Records Act). Governmental bodies are required to make public information available to the public, *see* Gov't Code § 552.221, unless it falls within one of the exceptions enumerated in subchapter C of the

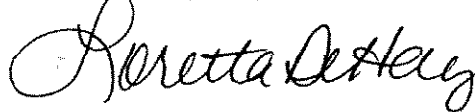
information confidential or that third party interests are at stake. Open Records Decision No. 150 (1977) at 2.

²We understand that you regularly provide the same information to the public in hard copy format.

Open Records Act. As you have raised no exception to the specific information requested, we conclude that this information must be released to the requestor.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta DeHay
Assistant Attorney General
Open Records Division

LRD/ch

Ref.: ID# 37989

Enclosures: Submitted documents

cc: Ms. Ana Maria Marsland
McElroy & Sullivan, L.L.P.
First State Bank Tower
400 West 15th Street, Suite 1410
Austin, Texas 78701
(w/o enclosures)